

December 6, 2007

Honorable Mitch McConnell
Minority Leader
United States Senate
Washington, DC 20510

Dear Senator McConnell,

I am requesting that I be consulted before the Senate enters into any unanimous consent agreements regarding S. 2292, the "National Bombing Prevention Act of 2007." I appreciate you protecting my rights on this legislation.

Before laying out my concerns, I want to emphasize that this legislation highlights an important issue facing DHS and Congress—how to prepare for terrorist using improvised explosive devices (IED) on American soil. I do agree that Congress needs to focus on this issue and I applaud Chairman Lieberman and Senator Collins for highlighting this important subject, and yet I must object to the specific provisions in this bill that are currently under consideration by the Senate.

I have a number of concerns with this legislation:

- 1) First, I am concerned that the bill authorizes a substantial growth in government, at a cost of \$60 million over three years, without any concomitant repeal in other, lower priority authority. This violates a principle I have, laid out in a letter sent at the beginning of the 110th Congress to all my Senate colleagues, to withhold my consent for unanimous passage of any bill that authorizes new spending without an equivalent reduction in existing spending authority for a lower-priority or less effective program.
- 2) Second, I'm concerned that this legislation will result in duplicative federal programs which will cause confusion at the State and Local level as to which Department at the federal level is responsible for overseeing state and local response efforts.
- 3) S. 2292 will create an Office of Bombing Prevention within the Department of Homeland Security to coordinate "the efforts, of the Nation to deter, detect, prevent, protect against, and respond to terrorist explosive attacks." However, currently it is the Department of Justice (DOJ) that has the primary

responsibility for responding to terrorist explosive attacks. The Bureau of Alcohol, Tobacco and Firearms (ATF) and the FBI are responsible for coordinating DOJ's efforts.

- 4) In addition, DOJ, through ATF and the FBI, has a full range of programs and capabilities designed to “deter, detect, prevent, protect against, and respond to terrorist **explosives** attacks.” These include:
 - a. ATF's Center for Explosives and Arson Data
 - b. ATF's National Center for Explosives Training and Research
 - c. FBI's Hazardous Devices School
 - d. ATF's Arson and Explosives National Response Team
 - e. The Terrorist Explosive Device Analytical Center
- 5) Also, DOJ has jurisdiction in the investigation of bombings, arsons of Federal interest, and acts of terrorism, including incidents involving weapons of mass destruction. It's obvious that these capabilities should continue to be managed and coordinated by DOJ, yet with this proposed legislation, it is unclear if that coordination would rest within DOJ or this new office within DHS.
- 6) S. 2092 specifically states that DHS' Office of Bombing Prevention will be in charge of “coordinating national and intergovernmental bombing prevention activities to ensure those activities work toward achieving common national goals.” This language contradicts language included in HSPD-19 which gives the Attorney General the main coordination responsibility to provide the President with a report on explosive attack prevention, detection, protection and response efforts, and collaboration with state and local governments.
- 7) S. 2092 also requires the Office of Bombing Prevention to maintain a national analysis database on the capabilities of bomb squads, explosive detection canine teams, tactics teams, and public safety dive teams. ATF currently operates a database of ATF and state/local explosives detection canine (EDC) teams that have met national certification standards and ensures that EDC teams maintain current certification standards as set by ATF. This language would cause some duplication with those existing efforts.
- 8) I'm also concerned about the technology transfer program S.2092 creates within DHS. This program already exists at the Department of Defense (DoD). Section 1401 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107-314) requires the Secretary of Defense to designate a DoD senior official to coordinate DoD efforts to identify, evaluate, deploy, and transfer DoD technologies and equipment to Federal, State, and local first responders technology, items, and equipment in support of homeland security.

- 9) This program continues today and DOD shares MOUs with the Department of Homeland Security and the Department of Justice. DHS has designated the Science and Technology Directorate as the contact for the DOD program.

Again, I am grateful to my colleagues for raising this important issue for Senate consideration. It is quite possible that many of the existing programs relating to bombing prevention at DOJ, DOD and DHS are not functioning optimally. The purpose of DHS is to help coordinate efforts taking place across the government, and I don't intend for my concerns about S. 2292 to suggest that the federal government shouldn't improve its coordination in order to help prepare our nation for IED terrorist attacks. Yet, I fear this bill may create more confusion and bureaucratic waste as government organizational charts get shuffled yet again as they have many times in recent years. America's first responders deserve to know who is in charge at the federal level. Returning to the pre-9/11 confusion and duplicative federal programs will do nothing to serve these brave men and women protecting our country. They deserve better.

Thank you for protecting my rights on this legislation.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tom A. Coburn", with a large, stylized initial "T" and a long horizontal flourish extending to the right.

Tom A. Coburn, M.D.
U.S. Senator